

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE**

Rhonda S. Abbott

v.

Civil No. 05-cv-127-SM

Town of Salem, NH., et al.

O R D E R

Defendant Control Security Service's, Inc. moves to strike plaintiff's responses to Requests for Admissions as untimely. Plaintiff, of course, objects.

Discussion

The Requests for Admission were served on plaintiff on November 27, 2006. The certificate of service states that service was by pre-paid first class mail. Fed. R. Civ. P. 36(a) provides, in pertinent part that:

(t)he matter is admitted unless, within 30 days after service of the request, or within such . . . longer time as the court may allow . . . the party upon whom the request is directed serves . . . a written answer or objection . . .

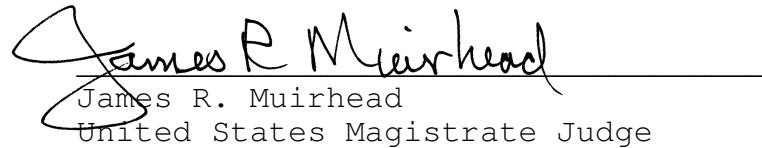
No request to the court was made for a longer time and none was granted. The requests are deemed admitted and the responses filed one month late are a nullity.

Plaintiff's reading of AP2.1 is simply wrong. The rule does

not require that discovery be done electronically. The electronic information agreement deals with discovery of electronic data. It does not switch a requirement of discovery by electronics to paper. The objection is without basis. In any event, all "information and belief" responses also fail to comply with the rule.

Since the responses are not a pleading they are not subject to being struck. They are a nullity and the requests are all deemed admitted.

SO ORDERED.



James R. Muirhead
United States Magistrate Judge

Date: April 27, 2007

cc: John P. Coakley, Esq.
Catherine M. Costanzo, Esq.
Donald E. Gardner, Esq.
Meredith M. Lasna, Esq.
Debra L. Mayotte, Esq.
Richard J. Riley, Esq.
William R. Sullivan, Jr., Esq.
William R. Sullivan, Sr., Esq.